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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,176	03/01/2000	Takayoshi Sasaki	PM 266297	3428

7590 08/23/2006

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EXAMINER

LE, HOA T

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/516,176

Applicant(s)

SASAKI ET AL

Examiner

H. T. Le

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 5-8 and 10-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,16,17 and 20-24 is/are rejected.
- 7) ☒ Claim(s) 3,4,9,18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Response to Arguments***

2. Applicant's arguments have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, new grounds of rejection are made as set forth below.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 is directed to a process; however, no positive process limitation is recited in the claim. Thus the claim is indefinite.

### ***Claim Rejections - 35 USC § 102***

5. Claims 1, 2, 20, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by the JP '358 patent (JP 06-285,358).\*

JP '358 patent teaches a spherical holly particles comprising a titanium dioxide shell.

See paragraph [0001] and [0002] and [0037]. The shell is porous (see par. [0011], line 1)

indicating that the shell comprises of particles stuck together. The mean particle diameter is from 0.01 to 100  $\mu\text{m}$  (par. [0012]). The ratio of the inner diameter to the outer diameter is from 0.3 to 0.95 (par. [0014]). Thus the thickness of the shell is from 7 nm to 70  $\mu\text{m}$ . The use of the particles in cosmetic composition is discussed at paragraph [0002].

6. Claims 1 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by the JP '045 patent (EP 0 918 045).

EP '045 teaches ceramic granules comprising a shell of titanium dioxide particles. See paragraph [0075] and claim 8. The shell comprises particles stuck together. See figures 2, 3 and 6. The particles are used in gas sensors (par. [0075]) which inherently function as gas/air flow measurement.

7. Claims 16, 17 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by any one of the following patents: Morita (US 3,395,203), Armanini (US 4,192,691), Grollier et al (US 5,427,771), or Andes et al (US 5,858,078).

These patents teach titanium dioxide flakes used in cosmetic composition. The method of forming the flakes may be different from the recited process limitation. However, claims 16 and 22 are product-by-process claims, thus they are not limited to the recited process, but only to the product implied by the process. MPEP 2113. Here, the product implied is titanium dioxide flakes, which have been taught in the cited patents (see below).

Morita: See col. 2, lines 1-15;

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\* Cited by Applicant. A copy of translation is herein provided by the Examiner.

Armanini: See col. 2, lines 45-50 and col. 4, lines 55-64 ;

Grollier: See col. 1, lines 12-16 and col. 2, lines 23-31;

Andes: See col. 1, lines 4-5; col. 3, lines 8-21; and col. 5, lines 40-42.

***Allowable Subject Matter***

8. Claims 3, 4, 9, 18, 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art references of record, singly or combined, teach or suggest titania flakes formed by pulverizing hollow powder having a shell of laminated titania particles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511. The examiner can normally be reached on 10:00 a.m. to 6:30 p.m., Mondays to Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'H. T. Le', with a stylized, cursive flourish at the end.

H. T. Le  
Primary Examiner  
Art Unit 1773

August 20, 2006